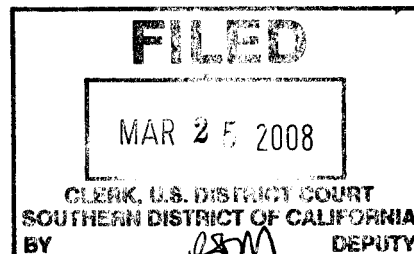


KAREN P. HEWITT
United States Attorney
CAROLINE P. HAN
Assistant United States Attorney
California State Bar No. 250301
United States Attorney's Office
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101
Telephone: (619) 557-5220



Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTONIO VALLEJO,

Defendant.

Magistrate Case No. 08MJ0785

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

(Pre-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Caroline P. Han, Assistant United States Attorney, and defendant ANTONIO VALLEJO, by and through and with the advice and consent of defense counsel, Frederick M. Carroll, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

//

CPH:es:3/12/08

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **April 11, 2008**.

6 4. The material witness, Alvaro Mireles-Garcia, in this case:

7 a. Is an alien with no lawful right to enter or remain in the United States;

8 b. Entered or attempted to enter the United States illegally on or about
9 March 10, 2008;

10 c. Was found in a vehicle driven by defendant at the San Ysidro, California Port
11 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that he was an
12 alien with no lawful right to enter or remain in the United States;

13 d. Was paying an undisclosed amount of money to others to be brought into the
14 United States illegally and/or transported illegally to his destination therein; and,

15 e. May be released and remanded immediately to the Department of Homeland
16 Security for return to his country of origin.

17 5. After the material witnesses are ordered released by the Court pursuant to this
18 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
19 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any
20 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral
21 attack, that:

22 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
23 substantive evidence;

24 b. The United States may elicit hearsay testimony from arresting agents
25 regarding any statements made by the material witness(es) provided in discovery, and such
26 testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements
27 against interest of (an) unavailable witness(es); and,

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
2 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
3 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
4 waives the right to confront and cross-examine the material witness(es) in this case.

5 6. By signing this stipulation and joint motion, defendant certifies that defendant has
6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
7 further that defendant has discussed the terms of this stipulation and joint motion with defense
8 counsel and fully understands its meaning and effect.

9 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
10 immediate release and remand of the above-named material witness(es) to the Department of
11 Homeland Security for return to his country of origin.

12 It is STIPULATED AND AGREED this date.

13 Respectfully submitted,

14 KAREN P. HEWITT
15 United States Attorney

16 Dated: 3/25/08

17 
18 CAROLINE P. HAN
19 Assistant United States Attorney

20 Dated: 3/18/08

21 
22 FREDERICK M. CARROLL
23 Defense Counsel for Vallejo

24 Dated: 3/18/08

25 
26 ANTONIO VALLEJO
27 Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to his country of origin.

SO ORDERED.

Dated: 3/25/08


United States Magistrate Judge